

Enforcement Issues of Concern Above Magic Reservoir

There are several places where significant resources will be required to enforce adjudicated water rights:

- Those instances where water users may be staying within their daily cfs limit, but by the end of the irrigation season, have significantly exceeded their AFA limit, the watermaster will need to compile the total delivered volumes for each water right fairly frequently. At the moment, while this data is collected frequently (perhaps weekly?), it isn't compiled and analyzed until the end of the irrigation season. In the case of the Lane Ranch water right, while Lane Ranch never exceeded their daily flow limit, at the end of the season they had diverted 10 times their allowable limit (700 AFA vs. the allowed 70 AFA). Analyzing this data weekly would allow the watermaster to shut off the right at the appropriate time (in this case, one-tenth of the way into the irrigation season!). Enforcement tasks will include:
 - collecting, compiling and analyzing flow data weekly.
 - shutting off water rights that have exceeded allotted annual values. While this is conceptually simple, our guess is that this will require significant communication with IDWR for backup and with angry water rights holders and probably some attorneys (i.e, time!).
- In their conditions of approval, many water rights in the valley have a requirement for measuring and monitoring devices. IDWR says that this requirement will be enforced beginning next year. Enforcement responsibilities that will go along with this include:
 - following up and ensuring that these devices are actually installed.
 - requesting monitoring data from water rights holders.
 - field verifying monitoring data to ensure that water rights limits are not being exceeded
- At the moment, the ditchriders are asked to report on delivered volumes. As enforcement proceeds, this arrangement may evolve to also involve the watermaster's office (per conversation with Kevin). We do know that there are enforcement problems along many of the major canals, and it is quite likely that the same AFA analysis and enforcement will be required on rights along these canals. Further, it is also a concern that some of the ditchriders, as water rights holders, may have a conflict of interest in monitoring the ditches by which their rights are delivered. Further, the ditchriders have no direct obligation to IDWR and therefore, will not be responsible if too much water goes to a particular canal. Thus, at least initially, the Watermaster will need to measure and monitor deliveries to water rights via these canals. Responsibilities might include:
 - all the same tasks as above (ensuring measuring and monitoring, compiling and evaluating flow data, enforcement, etc.).
 - working with ditchriders to ensure that they are up to speed on enforcement tasks
 - eventually relying more on ditchriders when it is clear that they are capable of monitoring and reporting necessary data
 - conducting periodic field checks to ensure that ditchriders continue to do their jobs appropriately.

Water District 37 & 37M
Advisory Board Meeting
Tuesday, October 9, 2007
Water District 37 & 37M Office, Shoshone, Id.

Chairman Rob Struthers called the meeting of the Water District 37 & 37M Advisory Board to order at 1:37 p.m. on Tuesday, October 9, 2007 at the Water District office in Shoshone, Idaho. Those present included advisory board members: Fred Brossy, Jerry Nance, Rob Struthers, Alan Koyle, Bud Purdy, Bob Esterbrook, Jerry Nance and Bill Arkoosh. Also attending was Kevin Lakey, Watermaster and Cyndi McCowan, Secretary. Board Member Butch Morris was unable to attend.
Also in attendance was:

Norm Semanko	Idaho Water Users Assoc.
Pepin Corso-Harris	Wood River Valley Irr. Dist. 45
Christi Falen	U of I Extension Educator
Allen Merritt	Idaho Dept. of Water Resources
Lynn Harmon	Big Wood Canal Company
Buck Drew	Wood River Legacy Project
Rich Dinges	Wood River Legacy Project
Carl Pendleton	Wood River Legacy Project
Rich McIntyre	Wood River Legacy Project
Mary Ann Peters	Wood River Legacy Project

The meeting began with the discussion of persons interested as serving as Ex Officio members for the Wood River Basin Enhancement Water Supply Bank development. It was determined the number of Ex Officio members would be decided at a later date. Norm Semanko told the group since the Ex Officio members would not be able to vote, they may want to consider adding persons with a special talent or expertise. Carl Pendleton commented the Ex Officio members could be a subcommittee, a group in the public dealing with donated water. Mr. Semanko replied the intent of the Ex Officio members was to be an add-on to the appointed local committee made up of the Advisory Board of Water District 37 & 37M.

Chairman Struthers asked if the Wood River Basin Enhancement Water Supply Bank Advisory Committee would be allowed to solicit donated water? How was the process going to work? Mr. Semanko reminded the group there had been a gentleman (Rich McIntyre) at the last meeting who had said he had been retained, part-time by his folks to help facilitate the donations. Mr. Semanko explained the Idaho Water Resource Board's roll was to accept the donations into the water bank and the local committee was to help facilitate that, but it is up to the Water Districts board how they wanted to structure it. Rich McIntyre said a good place to start may be what the group hoped to accomplish. Mr. McIntyre said people wanting to donate would want to know the project as the Wood River Legacy Project and how there was going to be WRLP board involvement within 37 & 37M to ensure their objectives and goals were protected. He commented he felt it was important to show publicly that everyone could work effectively together. He went on to say; he didn't feel it was strictly up to the Legacy board or the Ex Officio members to find water for donation. He felt there should be a sub committee to visit with people who may be interested in donating.

Bud Purdy asked how much water was being talked about? Mr. McIntyre said possibly a small amount to start with. He did not feel it was appropriate to go out and beat the bushes for contributions until there were by-laws and procedures set up. At the time of the meeting he thought there was possibly 5 cfs to be donated. He felt it would be important to let people know what options they had with their water,

Kevin replied, yes. Kevin said there would have to be measuring devices for sure from the point where the water was donated so the headgate(s) could be locked down. However it was dealt with, it needed to be good for all the water users and measuring devices should already be in place.

Norm Semanko referred to two components to subsection 7 (42-1508) Idaho code. He said part 1 basically stated if someone donated a water right and the water right had historically taken a portion of the assessment to operate the district, then the folks that were benefiting down-stream from getting the donated water would pay for that, but that didn't apply at that time because no one had donated water yet. Part 2 basically stated the additional cost of administering the program would be treated the same way assessments were treated for non-consumptive rights, just those people who benefit from it. The cost of measuring devices would be administrative costs for the program to be paid for by the owners of the donated water rights or other persons agreeing to pay such costs if the project wanted to do things before there were water rights donated. Mr. Semanko went on to say, the regular water users of the district could not be assessed for the cost of administering the project. Mr. Semanko said that was how he read the legislation.

There was discussion concerning the costs of the donated water, injury to others and forfeiture.

After a lengthy discussion amongst the members and those in attendance, Fred Brossy made a motion to accept the format of the donation form that had been drawn up, with the following changes: the form was to remain one page, the committee would address percent of consumptive and non-consumptive; the word "historical" would be added to nature of use with i.e. farming, lawn use, etc. The form would show a 5-year history of use. The water right number was to be added. Alan Koyle seconded the motion. The motion passed unanimously.

Mr. McIntyre asked if it was appropriate to change the name from Wood River Legacy Project to Wood River Basin Enhancement Water Supply Bank? Mr. McIntyre stated there had been a lot of press concerning the Wood River Legacy Project and had been so for a couple of years. Mr. Semanko asked if the Wood River Legacy Project had any life independent of the water bank project? Was it a subset of what the Legacy Project was? Mr. McIntyre said the legislation was the manifestation of what the Wood River Legacy Project had been working towards for the two years. Mr. Semanko said that didn't answer his question. Mr. Semanko asked if the WRLP was an advocate of a larger effort possibly a private group? After some discussion, Mr. Semanko said the Lemhi project had its origins with a private group that given birth to a governmental institution, which was the local water bank. He said in District 37 there was a private entity that helped give birth to a governmental water bank and that water bank and the WRLP were not the same thing. He said if Mr. McIntyre wanted to say they were the same thing, it may need to be referenced "As advocated by: The WRLP", then it seemed to him that the WRLP was almost short changing itself because it was doing things independent and bigger than just the water bank he thought, or had it just subsumed itself completely with just being a water bank project? Mr. McIntyre said the WRLP had two objectives; to take donated water rights restoring stream flows in the Wood River Valley and sending more water down basin. Mr. McIntyre asked if there were plans to expand the Wood River Legacy Project to involve a lot of other things? He said no. Mr. Semanko asked Mr. McIntyre if he was on board, if the WRLP had a budget and if he was on legal standing? Was the WRLP a separate entity from the District 37 water bank? He asked they are, right? Was it the same thing or not? Mr. Semanko asked Mr. McIntyre if he was asking to have the name imprinted on the local water supply bank or were they one in the same thing? Mr. Semanko said they were two different legal entities. One was a political subdivision, the state of Idaho local water district water bank and one was a private corporation that had its own budget. Mr. McIntyre said he was not a lawyer and he didn't really think about it in terms of legalities. He said all he knew was he wanted the project to work. He went on to say, the people that had brought the project to that point, who had put the money into the project, who had helped make it happen and the press; recognized it as the WRLP. People he had talked

allowing him to leave work at 12:00 pm, Tuesdays thru Thursday, to care for his daughter. He said his hours would be 7:00 to 12:00. That would begin November 1, 2007 thru March 31, 2008.

Fred Brossy asked Kevin about the comment Rich McIntyre had made concerning the IDWR enforcement and violations in 2008; Mr. Brossy's question was who was going to enforce that? Mr. Brossy said he presumed the Department was not going to work on enforcement until the irrigation season started in 2008. Kevin said he had emails between, Director of the IDWR, Dave Tuthill to Rich McIntyre, received from Norm Semanko. Mr. Tuthill had informed Mr. McIntyre of the workload from the adjudication the department was handling and how the department may handle the 2008 season. Mr. McIntyre had asked Mr. Tuthill if the department would handle the informational meeting that Mr. McIntyre was requesting, but Mr. Tuthill said the department was too busy at that time, but would be more involved in the enforcement in 2008.

Pepin Corso-Harris told the board that enforcement was a real concern for people in her area. She said she was not speaking for the whole District 45, but more for concerned persons in her area. She said people in her area would support the idea of raising assessments if there would be more enforcement. Norm Semanko asked if there would be a separate water district for the Ground Water after the adjudication was completed? Jerry Nance replied that Director Tuthill had been told that District 37 wanted to have the Ground Water included in the District surface water management. Mr. Semanko said he felt Mr. Tuthill should be reminded of that. After more discussion Pepin Corso-Harris and Norm Semanko left the meeting.

Kevin told the committee of the upcoming Sheriff's sale of the Building that the District office occupied. Kevin explained the District office was attached to property that had other buildings on the North side of Rail Street. Mr. Batchelor had been in the office, he told Kevin and Cyndi things would stay the same; he intended to go to the sale and protect his interests. The board asked Kevin to attend the sale.

Jerry Nance made the motion to accept the proposed budget for 2008 for Districts 37 & 37M as presented. Bob Esterbrook seconded the motion. The motion passed unanimously.

After some discussion, Bud Purdy made the motion to allow Watermaster Kevin Lakey to purchase a new 4-wheel drive pickup for the district if he chooses, up to \$25,000.00. Fred Brossy seconded the motion. The motion passed unanimously.

Bob Esterbrook made a motion to adjourn the meeting. Alan Koyle seconded the motion. The motion passed unanimously. The meeting adjourned at 4:12 pm. The next meeting of Water District 37 & 37M was to be determined at a later date.

Respectfully,

Cyndi McCowan
Sec/ Trea.
WD 37 & 37M

**Water Districts 37 & 37M
1:30pm December 18, 2007
Advisory Board Meeting
Agenda**

1.) Approval of Minutes

2.) Approval of WRBEWSB procedures

- As developed by the WRBEWSB sub-committee on November 20, 2007

3.) Concerned Water Users' Budget Considerations

-The Concerned Water Users group of Blaine County requests that the Advisory Board consider adding funds to the budget to help pay for added enforcement, research and/or attorney fees as related to the SRBA.

4.) Request for Interim Administration

- I'll be requesting critique/approval of a letter I'm writing to IDWR director David Tuthill requesting interim administration for the 2008 season. If granted by the director or the SRBA court, this would allow administration of the basin as per the Director's Report without having to wait for the partial decree to be issued.

5.) Purchase of Building

- Our landlord has offered to sell us the building we currently rent for a price of \$85,000.00. He is asking for \$15,000.00 down and would carry the balance at 7%. Counter offers or other options will be discussed.

Meeting moved to Masonic Hall

Merritt, Allen

From: Rassier, Phil
Sent: Monday, December 17, 2007 2:39 PM
To: Baxter, Garrick; Luke, Tim; Shaff, Don; Merritt, Allen; Jones, Doug; Bromley, Chris
Cc: Spackman, Gary; Spencer, Nick
Subject: RE: WD37 questions

Allen,

Another important consideration is that water districts are not parties to the SRBA and therefore are not authorized to seek interim administration under Idaho Code 42-1417.

Phil

From: Baxter, Garrick
Sent: Monday, December 17, 2007 12:58 PM
To: Luke, Tim; Shaff, Don; Merritt, Allen; Jones, Doug; Bromley, Chris
Cc: Rassier, Phil; Spackman, Gary; Spencer, Nick
Subject: RE: WD37 questions

Allen,

You should talk to Dave about interim administration. Last time we talked about it, Dave decided that IDWR was not going to seek approval for interim administration for any more basins. This was because of the Court's reluctance to grant it.

The court does not want to grant it where there are objections outstanding unless we have a very good reason for it. I would be surprised if Dave's position changed.

Garrick

From: Luke, Tim
Sent: Friday, December 14, 2007 4:26 PM
To: Shaff, Don; Merritt, Allen; Jones, Doug; Bromley, Chris
Cc: Rassier, Phil; Spackman, Gary; Baxter, Garrick; Spencer, Nick
Subject: RE: WD37 questions

Even if we do not have IA and/or a water district, the CM rules do not preclude one from filing a delivery call but they may have to submit more info upfront.

Tim

-----Original Message-----

From: Shaff, Don
Sent: Friday, December 14, 2007 4:20 PM
To: Merritt, Allen; Luke, Tim; Jones, Doug; Bromley, Chris
Cc: Rassier, Phil; Spackman, Gary; Baxter, Garrick; Spencer, Nick
Subject: RE: WD37 questions

Reply 1:

Part of the IDWR lawyers and WD01 had a discussion last summer about Interim Administration. The vehicle for IA is the Director's Report. The downside is as cases are settled and maybe the quantity of water changes, IA is still by the DR until such time as all the rights in the area are decreed as partial decrees in the SRBA. IA overall is pragmatic and workable, but hardships for isolated rights can occur while the area is under IA and not fully decreed.

Don Shaff
(208)287-4921
don.shaff@idwr.idaho.gov

-----Original Message-----

From: Merritt, Allen
Sent: Friday, December 14, 2007 3:20 PM
To: Luke, Tim; Jones, Doug; Bromley, Chris; Shaff, Don
Cc: Rassier, Phil; Spackman, Gary; Water District 37 & 37M (E-mail)
Subject: WD37 questions

Kevin Lakey, WM for WD37 called and indicated that he has been approached by the "Concerned Water Users" requesting that the WD participate in hiring consultants and lawyers to investigate water claims in the Big Wood area. Apparently there is going to be a meeting next Tuesday to discuss this issue and he requested my participation.

As you may know this entity has filed numerous objections in the SRBA and are represented by ??? Barker; attorney with Rosholt, Simpson and Barker.

I told Kevin I didn't think it appropriate for the district to be assessing for these types of activities and we conference called in Phil Rassier and he concurred.

Kevin still wants me to still come to the meeting to relay this message.

Later Kevin called back and asked me another question he forgot. He said they also want the district to ask for interim administration of the recommendations. I told him that interim administration would only be for the partial decrees that would be coming out of the SRBA court and since there are so many objections filed I didn't think it wise for the district to get involved at this point. He thought the reason they want interim administration is to allow an immediate call against ground water users from surface water users. What are your thoughts on this subject?

I plan on attending the meeting next Tuesday. Any advise would be welcome.